

**Rules and Regulations
For
Groundwater Use in Fully and Over
Appropriated Areas**

**Central Platte
Natural Resources District**

**Adopted
February 23, 2006**

**Amended
June 22, 2006
November 16, 2006
April 26, 2007
December 20, 2007
June 26, 2008
July 23, 2009
June 30, 2011
April 26, 2012
January 24, 2013
June 27, 2013
April 24, 2014**

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Rules and Regulations For Groundwater Use in Fully & Over Appropriated Areas

AUTHORITY

The authority for these rules is contained in Chapter 46, Reissue Revised Statutes of Nebraska, Article 7 of the Nebraska Ground Water Management and Protection Act.

Rule 1. Area designation and boundaries

These rules apply to the district-wide Management Area as depicted on the accompanying map.

Rule 2. Definitions

- 2.1 Contamination/Remediation Well: shall mean a water well, constructed to recovery well standards, for the purpose of withdrawal or treatment of contaminated water, or for the introduction or removal of air, water or chemicals.
- 2.2 Dewatering Well: shall mean a water well constructed and used solely for the purpose of lowering the groundwater table elevation.
- 2.3 District: shall mean the Central Platte Natural Resources District.
- 2.4 Dryland Agricultural Use: the production of vegetation without the application or use of surface water or groundwater, whether applied directly or by sub-irrigation.
- 2.5 Emergency Situation: shall mean any set of circumstances that requires the use of water from any source that might otherwise be regulated or prohibited and the district reasonably and in good faith believes that such use is necessary to protect the public health, safety, and welfare, including, if applicable, compliance with federal or state water quality standards.
- 2.6 Expanded Use: shall mean consumptive use above and beyond the previous historic use.
- 2.7 Good Cause Shown: shall mean a reasonable justification for granting a variance to consumptively use water that would otherwise be prohibited by law, statute, rule or regulation and which the district reasonably and in good faith believes will provide an economic, environmental, social or public health and safety benefit that is equal to or greater than the benefit resulting from the prohibition from which a variance is sought.
- 2.8 Hayland: shall mean areas of predominately native or introduced grasses (not alfalfa or other legumes) that can be hayed but may on occasion be grazed.
- 2.9 Historic Consumptive Use: shall mean the amount of water that has previously been consumed under appropriate and reasonably efficient practices to accomplish without waste the purposes for which the appropriation or other legally permitted use was lawfully made.
- 2.10 Irrigation: shall mean artificial means of applying ground and/or surface water to promote growth of vegetation.

- 2.11 Monitoring Well: shall mean a water well that is designed and constructed to provide ongoing hydrologic or water quality information and is not intended for consumptive use.
- 2.12 Pasture: shall mean areas of predominately native or introduced grasses (not alfalfa or other legumes) that can be grazed but may on occasion be hayed.
- 2.13 Permit: shall mean a document that must be obtained from the district in accordance with Sections 46-735 through 46-738, Revised Statutes of Nebraska.
- 2.14 Replacement Well: For the purposes of these Rules and Regulations, a replacement well is defined as follows:
- 2.14.1 A water well which (a) replaces a previously abandoned water well within three years of the last operation of the abandoned water well or replaces a water well that will not be used after construction of the new water well with the original water well decommissioned within 180 days of construction of the new water well; and (b) if for irrigation, is constructed to provide water to the same tract of land served by the water well being replaced.
- 2.14.2 A water well that is used to supplement irrigation wells that irrigate lands already irrigated with groundwater provided that the irrigated acres cannot exceed the acres irrigated as defined by Rule 5.
- 2.14.3 New wells that irrigate land with surface water on the condition that the landowner provides the following (1) verification from the landowner that the well will only be used when the surface water supply is not available to the operator, (2) verification that the landowner will maintain the surface water right (3) verification that the irrigated acres will not exceed the acres irrigated as defined in Rule 5, (4) if the surface water right is not maintained, an offset must be provided, and (5) any other requirement or condition the Board may request. (6) Maintaining a surface water right includes paying a maintenance fee but not using the water, or a temporary transfer back to the canal company to be put to a beneficial use.
- 2.14.4 New wells that would irrigate lands not irrigated as defined by Rule 5 provided that (1) a) the same amount of water that would be depleted from the river over a 50-year period from consumptive use of groundwater withdrawals are retired from use (offset), and b) the offset occurs at the same time, rate and location as the depletion as identified by the current COHYST model, and (2) any other requirement or condition the board may request.
- 2.14.5. New wells that irrigate certified land previously irrigated by surface water with the surface water rights associated with that certified land having been acquired by the Natural Resources District for purposes of water banking.
- 2.15 Sub Irrigated: Land areas where the average static water level is twelve feet or less for such deep rooted crops including but not limited to alfalfa and clover; and seven feet for such deep rooted grasses including but not limited to big blue stem.

- 2.16 Test Hole: shall mean a hole designed solely for the purposes of obtaining information on hydrologic or geologic conditions.
- 2.17 Well or Water Well: shall mean a water well as defined in Section 46-601.01, Revised Statutes of Nebraska.

Rule 3. Closure of the management area to issuance of new well permits, preventing expansion of irrigated acres, and preventing increases in, or expansion of consumptive use of groundwater for other uses.

- 3.1 Effective January 5, 2006, and except as provided in the Rules and Regulations of the District, the district-wide management area is closed to the issuance of new well permits by the District.
- 3.2. Except as provided in the Rules and Regulations of the District, only “irrigated land” as defined in rule 5 and/or land which has been certified in accordance with the provisions of Rule 6 may be irrigated with groundwater on or after January 5, 2006.
- 3.3 Effective March 22, 2006, and except as provided in the Rules and Regulations of the District, the district-wide management area is closed to increases in, or expansion of, consumptive use of groundwater withdrawals from water wells used for any beneficial purpose other than irrigation.
- 3.4 Any proposed change of use of an existing well that pumps more than fifty (50) gallons per minute must be approved by Central Platte NRD before such change occurs, as provided in Rule 4.5.
- 3.5 Wells not subject to Rule 3.1 are:
 - 3.5.1 Test holes.
 - 3.5.2 Dewatering wells with an intended use of less than ninety days.
 - 3.5.3 Water wells designed and constructed to pump fifty (50) gallon per minute or less; provided that if two or more water wells have individual pumping capacities of fifty (50) gallons per minute or less but a combined capacity of more than fifty (50) gallons per minute and if those wells are to be clustered or joined for a single purpose or if the water is to be commingled or combined for a single purpose, those wells shall be considered as one well and shall be subject to Rule 3.1.
 - 3.5.4 Water wells to be used as replacement wells as defined in the Rules and Regulations of the District.
 - 3.5.5 New wells that will irrigate land previously irrigated by surface water must maintain their surface water right. If the surface water right is not maintained, an offset must be provided.

- 3.6 A replacement well as herein defined or as further defined in District Rules and Regulations, is subject to the same provisions as the water well it replaces.

Rule 4. Variances and Offsets

- 4.1 The Board may grant variances from the strict application of these Rules and Regulations if it determines that construction of a new well is necessary to alleviate an emergency situation involving the provision of water for human consumption or upon other good cause shown. Such request shall be acted upon by the Board of Directors following a public hearing notice and a public hearing.
- 4.2 A variance may be granted by the Central Platte Natural Resources Board of Directors, for the purpose of approving a well permit for a municipal or industrial well. The request for a variance must provide all the information requested by the District on forms provided by the District, and any other information requested by the District. Such request shall be acted upon by the Board of Directors following a public hearing notice and a public hearing.
- 4.2.1 Each year a municipality shall be responsible for reporting to the District monthly groundwater pumping volumes and where available monthly wastewater discharge volumes.
- 4.2.2 Each year the municipality shall be responsible for reporting to the District, and offsetting to the river, any new or expanded single commercial or industrial consumptive use served by the municipal water system whose consumptive water use is greater than twenty-five (25) million gallons annually.
- 4.3 The Board may grant a variance to Rule 3.2 and allow new acres to be irrigated if a) the same amount of water that would be depleted from the river over a 50-year period from consumptive use of groundwater withdrawals are retired from use (offset), and b) the offset occurs at the same time, rate and location as the depletion as identified by the current COHYST model.

The location of the offset shall be considered the same as the depletion if the offset is west of the depletion, or no more than one mile east of a north/south line drawn along the eastern edge of the area causing the new depletion, and within the same basin of influence as determined by the current COHYST Model. (See "Attachment A".)

The landowner must provide the following: 1) verification by Farm Service Agency (FSA) records or, if not available County tax records, that the number of acres to be taken out of irrigation production are irrigated as defined in Rule 5 and are equal or greater in depletion to the river over a 50-year period than the acres to be newly irrigated, and 2) any other requirements or conditions the Board may request. Such request shall be acted upon by the Board of Directors following a public hearing notice and a public hearing.

- 4.4 The Board may grant a variance to Rule 3.3 and allow increases in, or expansion of, consumptive use of groundwater withdrawals for any beneficial use other than irrigation if the same amount of water that would be depleted from the river over a 50-year period from consumptive use of groundwater withdrawals is retired from use. Such request shall be acted

upon by the Board of Directors following a public hearing notice and a public hearing.

- 4.5 The Board may grant a variance and allow a change to the use of a well as provided in Rule 3.4. A change of use may be accomplished by discontinuing its historic consumptive use, and transfer the right of that use to another purpose, and, if required, to another owner. The new use shall be limited to the consumptive use associated with the historic consumptive use. Such request shall be acted upon by the Board of Directors following a public hearing notice and a public hearing. Such change of use shall also be conditioned upon landowner's preparing and submitting the necessary Water Well Registration Modification form to the Department of Natural Resources as required by law.
- 4.6 Expedited Variances. An expedited variance may be granted by the Central Platte Natural Resources District's Manager, or his/her designated representative, for the purpose of approving a well permit for:
- 4.6.1 Contamination/Remediation Wells. The variance request and Application for a Permit to Construct a Water Well shall include written approval of the state agency with supervisory responsibility for the planned project.
- 4.6.2 Monitoring Wells. A monitoring well shall not have a permanent pump installation. The variance request and Application for a Permit to Construct a Water Well shall include the planned disposition of the monitoring well after its intended use is completed.
- 4.6.3 An expedited variance on Rule 3.2 may be granted by the Central Platte Natural Resources District's Manager, or his/her designated representative, without the necessity of a public hearing notice, a public hearing, and prior approval of this Board of Directors, provided that a) the same amount of water that would be depleted from the river over a 50-year period from consumptive use of groundwater withdrawals are retired from use (offset), and b) the offset occurs at the same time, rate and location as the depletion as identified by the current COHYST model.
- The location of the offset shall be considered the same as the depletion if the offset is west of the depletion, or no more than one mile east of a north/south line drawn along the eastern edge of the area causing the new depletion, and within the same basin of influence as determined by the current COHYST Model. (See "Attachment A".)
- The landowner must provide the following: 1) verification by Farm Service Agency (FSA) records or, if not available, County tax records, that the number of acres to be taken out of irrigation production are irrigated as defined in Rule 5 and are equal or greater in depletion to the river over a 50-year period than the acres to be newly irrigated, and 2) any other requirements or conditions that the District's Manager, or his/her designated representative, may request.
- 4.6.4 An expedited variance on Rule 3.3 may be granted by the Central Platte Natural Resources District's Manager, or his/her designated representative, without the necessity of a public hearing notice, a public hearing, and prior approval of the Board of Directors, provided that the landowner provide verification that the same amount of

water that would be depleted from the river over a 50-year period from consumptive use of groundwater withdrawals are retired from use.

- 4.7 All requests for a well to be considered a replacement well under the terms and conditions of Rules 2.14.2, 2.14.3 and 2.14.4 shall be made on forms provided by the District and such requests will be acted upon as follows:

- 4.7.1 For all replacement wells as defined in Rule 2.14.2 (supplemental wells), an expedited permit may be granted by the Central Platte Natural Resources District's Manager, or his/her designated representative, without the necessity of a public hearing notice, a public hearing, and prior approval of the Board of Directors. To substantiate that a proposed well is a supplemental well, the request must include proof that the land to be irrigated with the supplemental well is already irrigated land as defined by Rule 5 and that the irrigated acres cannot exceed the original number of irrigated acres.
- 4.7.2 For all replacement wells as defined in Rule 2.14.3, an expedited permit may be granted by the Central Platte Natural Resources District's Manager, or his/her designated representative, without the necessity of a public hearing notice, a public hearing, and prior approval of the Board of Directors. To approve this permit, there must be verification from the landowner that the well will only be used when the surface water supply is not available to the operator, that the landowner will maintain the surface water right, that the irrigated acres will not exceed the acres irrigated as defined in Rule 5, and if the surface water right is not maintained, offsets have been provided, and any other requirement or condition the Board may request.
- 4.7.3 For all replacement wells as defined in Rule 2.14.4, an expedited permit may be granted by the Central Platte Natural Resources District's Manager, or his/her designated representative, without the necessity of a public hearing notice, a public hearing, and prior approval of the Board of Directors provided that a) the same amount of water that would be depleted from the river over a 50-year period from consumptive use of groundwater withdrawals are retired from use (offset), and b) the offset occurs at the same time, rate and location as the depletion as identified by the current COHYST model, and any other requirement or condition the board may request.

- 4.8 Area with impacts to the Platte River below Chapman.

- 4.8.1 The District's Board of Directors may grant Variances to these Rules and Regulations for an area that impacts the Platte River below Chapman, Nebraska (See Attached Map). These impacts will not have to be offset as long as the District or the Dept. of Natural Resources determine that any of these new uses are not causing an adverse affect to the Platte River below Chapman.
- 4.8.2 The Board will establish an application period of February 28th through April 15th and applicants will be notified of the status of their application by April 30th for the year of 2012. For the crop year 2013 and thereafter, applications will be

taken from October 1st through November 30th each year and applicants will be notified of the status of their application by February 1st.

- 4.8.3 To be eligible, the applicant must be in compliance with all District regulations and programs and certify that they are in compliance with all Federal and State Programs.
- 4.8.4 The Board will establish a ranking system with (1) Fewer acres have a higher ranking, on the number of acres being developed, (2) The least depletion on the river having the highest ranking, and (3) such other items the Board may determine.
- 4.8.5 Applications for a variance in the area with impacts to the Platte River below Chapman shall have a non-refundable application fee of \$100.00 on all applications up to 10 acres and a \$150.00 fee for all applications more than 10 acres. The applications are only good for the current application period and cannot be carried over to the next year.
- 4.8.6 All existing Rules and Regulations dealing with variances and transfers apply in the area with impacts to the Platte River below Chapman except those dealing with the time that offsets are required.
- 4.8.7 If the District and/or the Department of Natural Resources determine the new uses are causing an adverse impact to existing surface water appropriators and/or groundwater users, sufficient numbers of the new uses will be required to provide offsets to the river to mitigate the impacts to the long term beneficial uses. The Board of Directors will determine a method of selecting those required to make offsets.
- 4.8.8 The plan for development must be implemented during the calendar year in which it was approved except for the 2012 calendar year which must be implemented by the 2013 growing season.
- 4.8.9 Any application granted is tied to the land for which it was applied and is non-transferable.

Rule 5. Irrigation History

- 5.1 Land under the original State stay that will be considered “irrigated land” must show irrigation history by Farm Service Agency (FSA) records. If Farm Service Agency (FSA) records are not available, the NRD Board of Directors may consider other things such as County tax records or sworn statements, provided the signer of the sworn statement appears before the Variance/Appeals Committee to give verbal testimony and be available for questions. To be considered irrigated land, the land must have been:
 - 5.1.1 Irrigated prior to the end of the 2005 irrigation season from a water well that was constructed within the nine months prior to the State stay on new irrigated lands, but was not used for irrigation prior to that effective date (July 26, 2004), and further

- provided that those acres are no greater than the number of acres shown on the permit, or
- 5.1.2 Irrigated prior to the end of the 2005 irrigation season from a water well that was constructed after the effective date of the State stay on new irrigated lands, but in accordance with a permit granted by the District prior to the effective date of the stay (July 26, 2004), and further provided that those acres are no greater than the number of acres shown on the permit, or
 - 5.1.3 Irrigated in 2003 or 2004 prior to the State stay on new irrigated lands (July 26, 2004), or
 - 5.1.4 Irrigated at least 2 out of the 10 years prior to the State stay on new irrigated lands (July 26, 2004), or
 - 5.1.5 Land that can be shown to have been previously irrigated, but during the 10 years prior to the State stay on new irrigated lands (July 26, 2004) was enrolled in a federal conservation program (CRP, CREP, etc.), or
 - 5.1.6 Land that can be shown to have been previously irrigated, but during at least 9 of the 10 years prior to the State stay on new irrigated lands (July 26, 2004) was growing alfalfa in the sub-irrigation areas in the District.
 - 5.1.7 Pasture or hayland that can be shown to have been irrigated at least 2 out of 10 years and will remain as irrigated pasture or irrigated hayland, unless the average annual consumptive use is transferred to another use and/or location pursuant to the Rules and Regulations of the District.
- 5.2 Land within the Central Platte Natural Resources District, but outside the original State stay, that will be considered “irrigated land” must show irrigation history by Farm Service Agency (FSA) records. If Farm Service Agency (FSA) records are not available, the NRD Board of Directors may consider other things such as County tax records or sworn statements, provided the signer of the sworn statement appears before the Variance/Appeals Committee to give verbal testimony and be available for questions. To be considered irrigated land, the land must have been:
- 5.2.1 Irrigated prior to the end of the 2006 irrigation season from a water well that was constructed, but was not used for irrigation prior to that effective date (January 6, 2006), and further provided that those acres are no greater than the number of acres shown on the permit, or
 - 5.2.2 Irrigated prior to the end of the 2006 irrigation season from a water well that was constructed after the effective date of the NRD stay on new irrigated lands, but in accordance with a permit granted by the District prior to the effective date of the stay (January 6, 2006), and further provided that those acres are no greater than the number of acres shown on the permit, or

- 5.2.3 Irrigated in 2004 or 2005 prior to the NRD stay on new irrigated lands (January 6, 2006), or
- 5.2.4 Irrigated at least 2 out of the 10 years prior to the NRD stay on new irrigated lands (January 6, 2006), or
- 5.2.5 Land that can be shown to have been previously irrigated the year prior to the contract, but during the 10 years prior to the NRD stay on new irrigated lands (January 6, 2006) was enrolled in a federal conservation program (CRP, CREP, etc.), or
- 5.2.6 Land that can be shown to have been previously irrigated, but during at least 9 of the 10 years prior to the NRD stay on new irrigated lands (January 6, 2006) was growing alfalfa in the sub-irrigation areas in the District.
- 5.2.7 Pasture or hayland that can be shown to have been irrigated at least 2 out of 10 years and will remain as irrigated pasture or irrigated hayland, unless the average annual consumptive use is transferred to another use and/or location pursuant to the Rules and Regulations of the District.

Rule 6. Certification of Irrigated Acres

Central Platte NRD staff will gather data to locate and enumerate cropland, hay land and pasture land within district boundaries that is irrigated from groundwater or surface water resources.

- 6.1 All land under the original State stay that can be shown to have been farmed, grazed or hayed as irrigated land as outlined in Rule 5.1.3, 5.1.4, 5.1.5, or 5.1.6, must be certified.

The NRD Board of Directors may also certify irrigated acres developed within the State stay area after the effective date of the designation of the stay as outlined in Rule 5.1.1 or 5.1.2.

- 6.2 All land outside the original State stay, but within the Central Platte NRD boundaries, that can be shown to have been farmed, grazed or hayed as irrigated land as outlined in Rule 5.2.3, 5.2.4, 5.2.5. or 5.2.6 must be certified.

The NRD Board of Directors may also certify irrigated acres developed outside the original State stay but within the NRD boundaries after the effective date of the NRD's limitation and prevention of expansion of irrigated acres (January 6, 2006) as outlined in Rule 5.2.1 or 5.2.2.

6.3 Procedure to Certify Irrigated Acres

- 6.3.1 NRD staff will mail to each landowner in the District a certification document, an aerial photo and the number of acres on each field that has been initially determined to be irrigated.
- 6.3.2 If the landowner agrees with the acres irrigated as described in Rule 6.3.1, the landowner must sign the certification document and return it to Central Platte Natural Resources District within 30 days to complete the certification process.

- 6.3.3 If the landowner disagrees with the acres irrigated as described in Rule 6.3.1, the landowner must contact the NRD within 30 days indicating that they disagree with the acres irrigated determination and schedule a conference at a mutually agreeable date with the NRD staff at which time the landowner must provide proof that the acres were irrigated as of July 26, 2004 or proof the land falls under one of the categories in Rule 5. Irrigation History.
- 6.3.4 The NRD will accept Farm Service Agency (FSA) 578 records, FSA aerial photos of certified acres. If Farm Service Agency (FSA) records are not available, the NRD Board of Directors may consider other things such as County tax records or sworn statements, provided the signer of the sworn statement appears before the Variance/Appeals Committee to give verbal testimony and be available for questions.
- 6.3.5 Certification of irrigated acres will only be accepted by the Central Platte Natural Resources District until December 31, 2014.
- 6.4 Offsets for groundwater applied through center pivots over hydrologically connected canals and streams below irrigation delivery canals in the areas west of Kearney.
 - 6.4.1 Offsets for groundwater newly applied through center pivots over canals, laterals, flowing drains and flowing streams located below irrigation delivery canals in the areas west of Kearney will be required to be offset based upon the following criteria:
 - a. A depletion factor in the range of 0-25% assumes an accretion to the river is four times the depletion caused by pumping on the wetted area (wetted area x 4 is considered offset)
 - b. A depletion factor in the range of 26-50% assumes an accretion to the river is two times the depletion caused by pumping on the wetted area (wetted area x 2 is considered offset).
 - c. A depletion factor in the range of 51-75% assumes an accretion to the river is one and one half the times of depletion caused by pumping on the wetted area (wetted area x 1.5 is considered offset).
 - d. A depletion factor in the range of 76-100% assumes an accretion to the river is equal to the depletion caused by pumping water on the wetted area (wetted area is considered offset).
 - 6.4.2 These potential credits can only be applied to those areas directly associated with the bank, berm or dikes bordering the stream, drain or canal and are non-transferable outside the proposed center pivot area. Soil restrictions will apply.
 - 6.4.3 In other areas of the District, offsets will be required if irrigation water is applied over streams/creeks/drains and the area is not certified irrigated by the District. Soil restrictions will apply.

- 6.4.4 Streams and creeks in the District that are not certified irrigated to which irrigation water is newly applied will be required to plant and maintain buffer strips on both sides of the high bank of the channel, at least 10 feet or more. Soil restrictions will apply.
 - 6.4.5 Landowners must follow Army Corps of Engineers 404 requirements and any other local/state requirements.
- 6.5 Procedure to change location of NRD-certified irrigated acres. Landowners may request that the NRD Board of Directors authorize changes in the location or number of certified irrigated acres. All requests shall be made on forms provided by the District.
- 6.5.1 The NRD Board of Directors may authorize re-location of certified acres provided that
 - a) the same amount of water that would be depleted from the river over a 50-year period from consumptive use of groundwater withdrawals are retired from use (offset), and
 - b) the offset occurs at the same time, rate and location as the depletion as identified by the current COHYST model.

The location of the offset shall be considered the same as the depletion if the offset is west of the depletion, or no more than one mile east of a north/south line drawn along the eastern edge of the area causing the new depletion, and within the same basin of influence as determined by the current COHYST Model. (See “Attachment A”).
 - 6.5.2 The NRD Board of Directors may deny a change in the location or number of certified irrigated acres in the following instances:
 - 6.5.2.1 The landowner request would result in re-locating certified irrigated acres from one river basin to another river basin.
 - 6.5.2.2 The landowner fails to report changes in land use on all tracts that are involved in re-location of irrigated acres.
 - 6.5.2.3 A citizen or NRD staff provides information to the NRD Board of Directors indicating that adding irrigated acres in a particular area would likely be harmful to the area or is otherwise contrary to NRD rules or state or federal laws.
 - 6.5.2.4 Certified acres coming out of a CRP contract must be under the same ownership for two years prior to a water transfer.
- 6.6 Procedure to withdraw NRD certification of irrigated acres. The NRD Board of Directors may withdraw certification of irrigated acres under the following circumstances:
- 6.6.1 The landowner petitions or asks the Board of Directors to change the use classification of the certified acres from an irrigated to a non-irrigated land use class.
 - a. Land that has been proven to be historically irrigated (certified) and is decertified at the landowner’s request, will remain dry land unless offset.

- b. Land that is decertified by the District, where irrigated taxes are no longer paid, cannot be marketed as irrigated land. Prior history of irrigation will not be allowed to re-certify the land.
 - c. Certified acres that are to be decertified may be transferred as long as the land from which the transfer is made remains certified and irrigated taxes are paid until the day of the transfer.
- 6.6.2 The Farm Service Agency (FSA) or the County Assessor of the county in which the certified acres are located changes the land use classification of the certified acres from an irrigated to a non-irrigated land use class.
- 6.6.3 The land no longer complies with the definition of irrigated land as provided in Rule 5, or for such other reasons that the Central Platte Natural Resources District Board of Directors deem appropriate.
- 6.6.4 After January 2, 2010, in order to maintain irrigation status the land must be:
- a. Irrigated at least 2 out of 10 years in every decade starting in 2010, or
 - b. Enrolled in a federal conservation program (CRP, CREP, etc.), or
 - c. Growing alfalfa in the sub-irrigation areas in the District, or
 - d. Pasture or hayland that can be shown to have been irrigated at least 2 out of 10 years and will remain as irrigated pasture or irrigated hayland, or
 - e. The right to irrigate certified acres may be temporarily transferred, following an application and approval by the NRD, to the NRD's water bank in the landowner's name for up to ten years for the District to put to a beneficial use. The right to irrigate individual certified irrigated acres can be deposited in the NRD's water bank only one time.

The landowner may, with written notice to the NRD, withdraw the transfer to the water bank, or any part of the transfer, during the months of January, February, or March, in any year before the ten years are up, in order to utilize the water right, or

- f. The right to irrigate certified acres may be temporarily transferred, following an application and approval by the NRD, to the NRD in any increment of five years up to a maximum of thirty years for the District to put to a beneficial use. Any such temporary transfer may be renewed or otherwise extended by the parties thereto in any year ending in a four or a nine at any time following the midpoint of the original transfer, but any such renewal or extension requires an application which is subject to review and approval by the NRD and a determination that the District can put the transfer to a beneficial use.

No renewal or extension nor combination of renewals or extensions shall cause the term of any such temporary transfer to exceed thirty years in duration from the date the first renewal or extension is approved by the District.

Original Applications for temporary transfers will be accepted in 2014 and in any year ending in a four or nine (2019, 2024, 2029, etc.) thereafter. Approved transfers will become effective the following calendar year.

The lands from which the rights to irrigate are temporarily transferred to the NRD for beneficial use may not use ground water, but must remain “certified”, with irrigation taxes paid.

- 6.6.5 Any certified irrigated acres that do not meet the requirement of Rule 6.6.4 shall be de-certified.
- 6.6.6 Participation in the transfer program beyond the time frame of the original application and all combinations of any renewals or extensions shall require a new original application which shall be subject to review and approval by the NRD and a determination that the District can put the transfer to a beneficial use.
- 6.6.7 Two calendar years prior to de-certification, the land owner will be notified by the District, by certified mail, of the pending de-certification. The notice will outline the options the landowner has to retain irrigation status.

Rule 7. Transfers:

- 7.1 Transfers off of overlying land. Any person who desires to withdraw groundwater from wells located within the district and to transfer the groundwater withdrawn off of the overlying land for reasonable and beneficial use elsewhere may do so only after applying for and obtaining approval from Central Platte NRD.
 - 7.1.a Transfers off of overlying land of one acre or more to newly irrigated lands will be allowed for cropland on Class I, Class II, Class III, Class IVw, and Class IVs soils as identified in the NRCS Standard Soils Survey and inclusions of soils within Class IVe VIe and VIIe soil map units that do not have a high potential for soil erosion due to water or wind, as delineated using CPNRD Light Detection and Ranging (LiDAR) data layer and NRCS Standard Soils Survey.
 - 7.1.b Transfers of groundwater for the purpose of irrigation of cropland on Class IVe, VIe, and VIIe soils, that have high potential for soil erosion, will be allowed as part of a one-time exemption on up to 10% of a project (any combination of Class IVe, Class VIe & Class VIIe soils not to exceed 15.0 acres) transferred at one times the acres or ac-ft whichever is greater. If the land which the groundwater is being transferred from is a Class VIIe soil, it must be seeded back to Central Platte NRD approved grasses following the transfer.

- 7.1.c Soils that have high potential for soil erosion are considered soils with a slope of 10.00% or more. LiDAR data collected for the CPNRD through 2012 will be utilized to determine areas equal to or greater than 10% slope. Grading, knob knocking, land leveling or any form of slope alteration does not change soils classification, nor the 2012 slope information derived from LiDAR.
- 7.1.d. Transfers of groundwater for the purpose of irrigation of grass on Class IVe and VIe soils that have high potential for soil erosion, and not part of an exemption, will be allowed provided the land that the groundwater is being transferred to remains in grass.
- 7.1.e Transfers of groundwater for the purpose of irrigation of grass on Class VIIe soils that have high potential for soil erosion, and not part of an exemption, will be allowed provided the land that the groundwater is being transferred to remains in grass.

The existing topography of the land on which the groundwater is transferred for irrigation, that is not part of an exemption, must remain as it is without grading, knob knocking, land leveling or any form of slope alteration. Center pivot travel ways may be constructed and shall be maintained with the wheel track not exceed a width of three (3) feet.

- 7.1.f Transfers of groundwater for the purpose of irrigation on Class Vw, VIw, VIs, VIIw, VIIIs, VIIIw, or VIIIs, soils will be allowed provided the land which the groundwater is being transferred to, complies with the US Department of Agriculture Wetland Conservation Provisions and/or the US Army Corps of Engineers, Section 404 of the Clean Water Act and any other local/state/federal requirements. Documentation of compliance of the aforementioned must be provided to the Central Platte Natural Resources District prior to the transfer review.
- 7.1.g Transfers of groundwater for the purpose of irrigation of cropland on Class IVe, ~~and~~ VIe and VIIe soils will be allowed under the following specified criteria for Small Area Exemptions:
1. The small area exemption applies to: Class IVe, ~~and~~ VIe and VIIe soils that have high potential for soil erosion that involve such areas as:
 - a. Small non-cropland areas such as abandoned farmsteads, areas around filled or capped wells, rock piles, trees or brush, etc., within or adjacent to existing cropland fields.
 - b. Small, cropland areas, certified as non-irrigated land such as center-pivot corners or wedges within or adjacent to existing irrigated land.
 - c. Soils that have high potential for soil erosion are considered soils with a slope of 10.00% or more. LiDAR data collected for the CPNRD through 2012 will be utilized to determine areas equal to or greater than 10% slope. Grading, knob knocking, land leveling or any form of slope alteration does not change soils classification, nor the 2012 slope information derived from LiDAR.

2. The small area exemption may be granted in conjunction with:
 - a. Installation of new or improved irrigation systems such as the conversion from a gravity to sprinkler (i.e. center pivot) or subsurface irrigation system.
 - b. Modification of an existing irrigation system such as the addition of a corner system to an existing center pivot.
 - c. The small area exemption size is limited to 15 acres.

3. The small area exemption shall be allowed on up to 10% of a project not to exceed 15 acres of a high potential for soil erosion on Class IVe, ~~or Class VIe~~ or VIIe soils.
 - a. Transfers to areas utilizing the small area exemption shall be made from the most highly erodible areas available .
 - b. Project, as used in these rules, shall mean the entire irrigation complex or system on the same tract of land as the requested variance, such as all the land under a proposed center pivot system.

7.1.h Transfers of groundwater for the purpose of irrigation on Class VIII soils will not be allowed.

Withdrawal and use of such water shall be consistent with all applicable state statutes, groundwater management plans and goals, and rules and regulations of the District. In addition, such transfers shall be conditioned upon and limited to, transfers in which the land where the right is transferred from remains in dryland agricultural use. Once granted, such permits will remain in force until the owner of a well that is subject of such transfer notifies the NRD in writing that the permit should be cancelled, or until the NRD Board of Directors determine that such transfers are no longer in the best interest of the public, except as specified herein.

7.1.1 Delivery Systems. In those instances where groundwater will be transported off overlying land using surface water delivery systems or natural streams or where surface water and groundwater will become commingled as a result of a groundwater transfer, said transfer permit will be valid for a period of one year from the date of issuance.

7.1.2 Transfers Into and Out of the District. Any person who desires to withdraw groundwater from wells located within the District and transport that groundwater out of the District for use elsewhere or transport water into the District for use, may do so only after obtaining a transfer permit in accordance with Rule 7.3.

7.1.2.1 Transfers Within the State. Use of the withdrawn water must be approved

by the District within which the water will be used. Groundwater shall not be transferred or transported to lands outside the boundaries of the Platte River Basin.

7.1.2.2 Transfers Out of State. Requests for transfer of groundwater out of the State of Nebraska pursuant to NEB. REV. STAT. Section 46-613.01 shall not be acted upon by the District until the Nebraska Department of Natural Resources has approved or denied the required transfer permit. Groundwater shall not be transferred or transported to lands outside of the boundaries of the Platte River Basin.

7.1.3 No transfers will be allowed into any sub-area if the ground water declines of such sub-area meets or exceeds 25 percent of the maximum acceptable decline as defined in 2.0 of the Groundwater Quantity Management Plan. This rule will stay in effect until the average water level is less than the 25 percent decline for two consecutive years, according to the spring water levels, taken by the District.

7.1.3.a Supplemental wells as defined in 2.14.2 will not be allowed in sub-areas that meet or exceed 25 percent of the maximum acceptable decline.

7.2 Transfer of Location of Use of a Well. Any person who desires to transfer the location of use of groundwater from wells located within the district, may do so only after applying for and obtaining approval from the Central Platte NRD on forms provided by the District. Transfer of location of use of one acre or more to newly irrigated lands will only be allowed according to Rule 7.1.a through 7.1.h. The transfer of location and the withdrawal of use at the new location shall be consistent with all applicable state statutes, groundwater management plans and goals, and rules and regulations of this District. In addition, such transfers shall be conditioned upon and limited to, transfers in which the land where the right is transferred from remains in dryland agricultural use. Once granted, such permits will remain in force for the period of time covered by the transfer, or until the owners of the wells that are the subject of such transfer notifies the NRD in writing that the permit should be cancelled, or until the NRD Board of Directors determine that such transfers are no longer in the best interest of the public.

7.2.1 A portion or all of the consumptive use may be transferred to the same or another user at another location for the same or another use. Only the unused portion of the consumptive use can be transferred unless specifically allowed by the NRD Board of Directors.

7.2.1.1 If the transfer of use is for the entire consumptive use, the well from which the use was transferred cannot be used during the period of time covered by the transfer. The well must be configured to prevent the possibility of contamination of the groundwater.

7.2.1.2 Permanent Transfer. A permanent transfer may be accomplished by decommissioning a well and discontinuing its certified use and permanently transferring the right to that use to another location. The new well shall be limited to the quantity of the consumptive use associated with the certified

use from the well being replaced, unless specifically allowed by the NRD Board of Directors.

7.2.1.2.1 If the well for which the use is being permanently transferred is part of a series, or a well that is commingled, combined, clustered or joined with other water wells, then only that pro rata portion of the consumptive use is transferred.

7.2.1.2.2 The allowed consumptive use for any use is associated with the certification of that use. The right to use shall be surrendered with a transfer of use or a permanent transfer. The new user would be limited in consumptive use to the quantity of consumptive use associated with the original certified use and would be subject to the same restrictions on volume of use as the original user.

7.3 Transfer Permits.

7.3.1 Any person who intends to withdraw groundwater and transfer that groundwater off the overlying land which he or she owns or controls or otherwise change the location of use of groundwater shall, before making such transfer, apply for a permit on forms provided by the District.

7.3.2 Issuance of the permit shall be conditioned upon the applicant's compliance with the following requirements: (1) the land from which the right is transferred remaining in agricultural production; (2) the applicant's compliance with the Rules and regulations of the District's involved; and (3) with such other conditions deemed appropriate by the District as provided by Rule 7.3.4 hereinbelow. The transfer shall automatically terminate at such time as the land from which the right is transferred, or a proportionate part thereof, ceases to be used for agricultural purposes and/or at such time as any of the other conditions of the permit are not being satisfied.

7.3.3 The applicant shall be required to provide access to his or her property at reasonable times for purposes of inspection by officials of the District.

7.3.4 The application for a transfer permit shall be denied or conditioned to the extent that it is necessary to (1) ensure the consistency of the transfer with the purpose or purposes for which the management area was designated, (2) prevent adverse effects on other groundwater users or on surface water appropriators, (3) prevent adverse effects on the state's ability to comply with an interstate compact or decree, or to fulfill the provisions of any formal state contract or agreement, and (4) otherwise protect the public interest and prevent detriment to the public welfare. The application for a transfer permit also shall be denied if (1) the location or operation of the proposed water well or other work would conflict with any regulations or controls adopted by the District or (2) the proposed use would not be a reasonable and beneficial use.

7.3.5 The issuance, by the District, of a transfer permit shall not vest in any person the right to violate any District rule, regulation, or control in effect on the date of issuance of

the permit or to violate any rule, regulation, or control properly adopted after such date.

7.3.6 The issuance, by the District, of a transfer permit shall not vest in any person the right to violate any statute, state agency or other jurisdictional agency's rule, regulation, or control in effect on the date of issuance of the permit or to violate any rule, regulation, or control properly adopted after such date. It is the responsibility of the applicant to ensure compliance with other rules and regulations.

7.3.7 The District shall review such applications and issue, with or without conditions, or deny the permit within sixty (60) days after the application is properly filed. An incomplete or defective application shall be returned for correction. If correction is not made within one hundred twenty (120) days of the return date, the application shall be cancelled.

7.4 Purchase of water from District's Water Bank

7.4.1 Purchase of water for irrigation from the District's Water Bank must be used on the land for which the water was purchased for at least four years before any new transfer of the purchased water can be made.

Rule 8. Violations

8.1 No purchase of water from the District's Water Bank can be made to offset a violation of the District's Rules and Regulations.

8.2 Violation Procedure Involving Irrigation Restrictions

8.2.1 First Violation: If a landowner or tenant violates these Rules and Regulations, the landowner or tenant must come into compliance with the Rules and Regulations by completing a Variance with the District and, if necessary, providing offsets as required by the Rules and Regulations.

8.2.2 Second Violation: If a landowner or tenant violates a second time, offsets for the violation must be provided by the landowner or tenant in an amount of two (2) times the violation in acre feet or irrigated acres, whichever is greater. Any excess above the violation in acre feet to the river will be credited to the Central Platte NRD water bank. The violation is stricken from the landowner's record three (3) years after the date offsets are provided. The violation will be noted on the tenant's record and will be stricken from the records three years after the date offsets are provided. Annual FSA records must be provided until the violation is stricken from the record.

8.2.3 Third Violation: If a landowner or tenant violates a third time, or any thereafter, the landowner or tenant must provide offsets at four (4) times the violation in acre feet or irrigated acres, whichever is greater. Any excess above the violation in acre feet to the river will be credited to the Central Platte NRD water bank. Annual FSA records must be provided until the violation is stricken from the record. The tenant/operator of the

land in violation will also be held in violation and subject to the provisions in Rule 8.2.3.a.

8.2.3.a Operators (either a tenant or an owner/operator) who have been involved in a third violation, or any thereafter, will be denied any variances on all land where he/she is the operator for a period of three (3) years following the date of the last violation.

8.2.4 Offsets should be provided from the same landowner's property whenever possible.

8.3 Violation Procedure Involving Soil Cover Restrictions.

8.3.1 First Violation: If a landowner or tenant violates these Rules and Regulations, the landowner or tenant must come into compliance with the Rules and Regulations by an acre for acre offset of irrigated crop land for each year of violation

8.3.2 Second Violation: If a landowner or tenant violates a second time, offsets of irrigated acres must be provided by the landowner or tenant in an amount of two (2) times the violation in irrigated acres or acre feet, whichever is greater. Any excess above the violation in acre feet to the river will be credited to the Central Platte NRD water bank. The violation is stricken from the landowner's record three (3) years after the date offsets are provided. The violation will be noted on the tenant's record and will be stricken from the records three years after the date offsets are provided. Annual FSA records must be provided until the violation is stricken from the record.

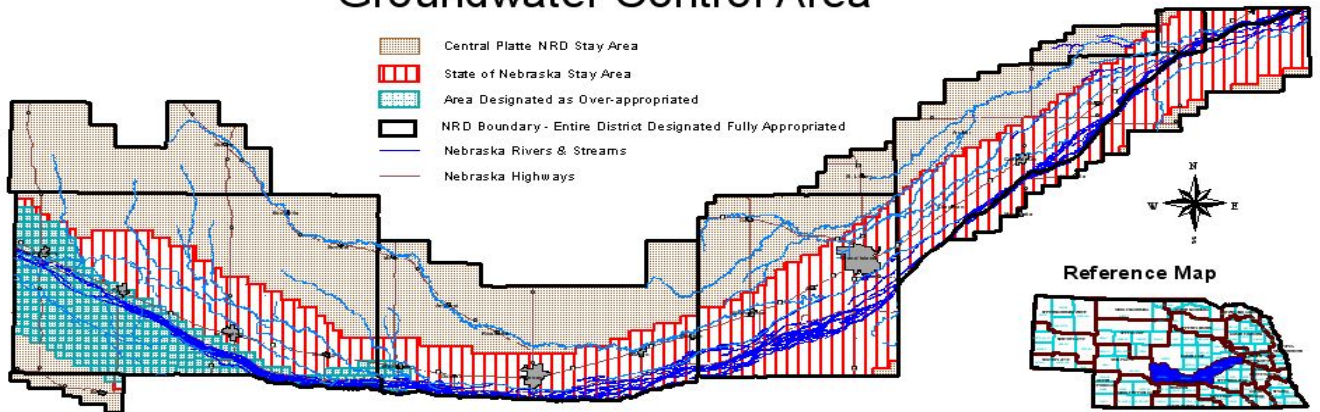
8.3.3 Third Violation: If a landowner or tenant violates a third time, or any thereafter, the landowner or tenant must provide offsets of irrigated acres at four (4) times the violation in irrigated acres or acre feet, whichever is greater. Any excess above the violation in acre feet to the river will be credited to the Central Platte NRD water bank. Annual FSA records must be provided until the violation is stricken from the record. The tenant/operator of the land in violation will also be held in violation and subject to the provisions in Rule 8.2.3.a.

8.2.3.a Operators (either a tenant or an owner/operator) who have been involved in a third violation, or any thereafter, will be denied any variances on all land where he/she is the operator for a period of three (3) years following the date of the last violation.

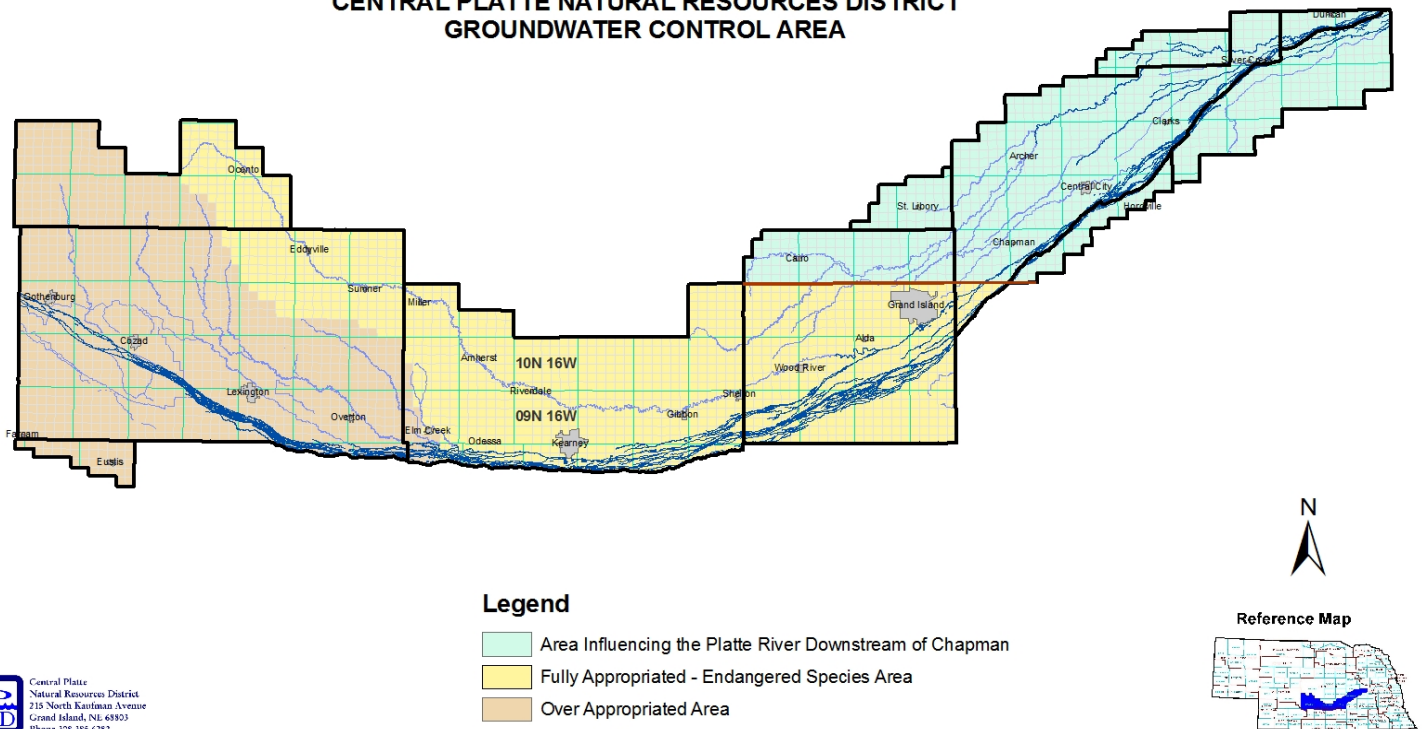
8.3.4 Offsets should be provided from the same landowner's property whenever possible.

8.4 The Rules and Regulations for Groundwater Use in Fully & Over Appropriated Areas and the above conditional uses will be enforced by the District through the use of cease and desist orders issued in accordance with the provisions of NEB. REV. STAT. §46-707(7) and NEB. REV. STAT. §46-745 (Reissue 2004). In accordance with Neb. Rev. Stat § 46-745 (Reissue 2004), any person who violates a cease and desist order issued by the district shall be subject to a civil penalty of not less than one thousand dollars (\$1,000.00) and not more than five thousand dollars (\$5,000.00) for each day an intentional violation occurs.

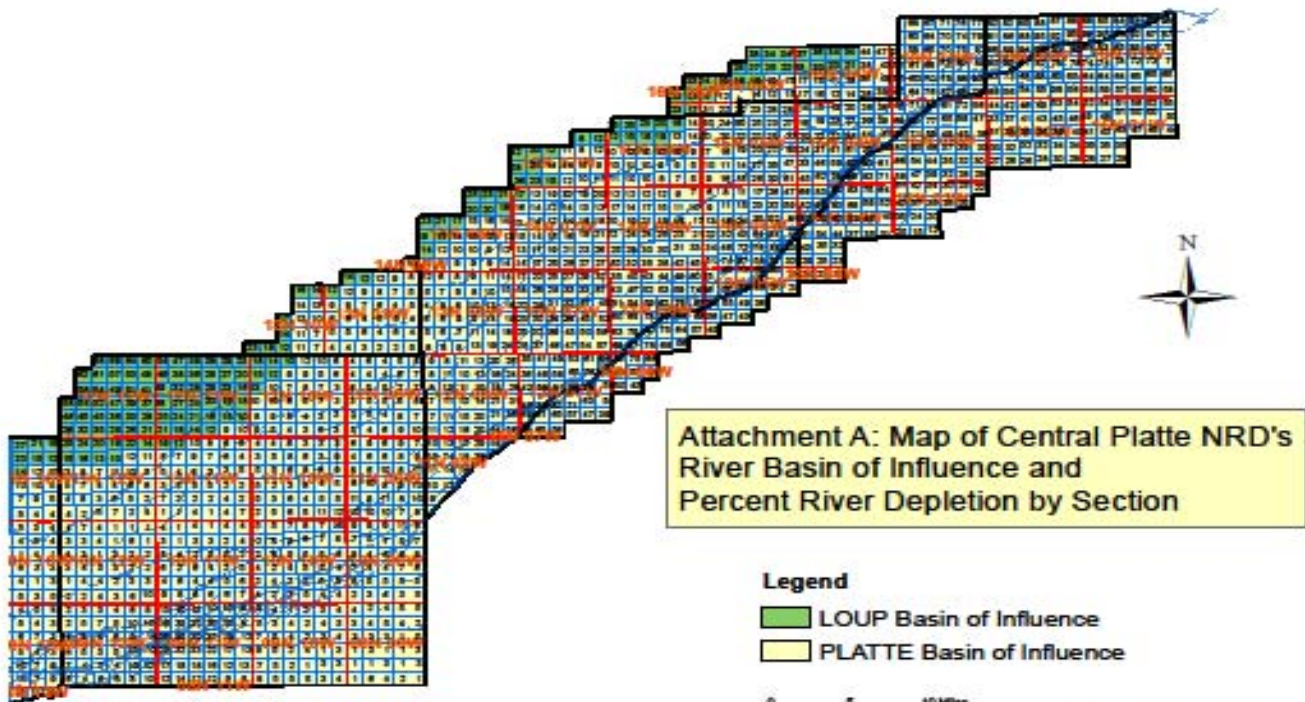
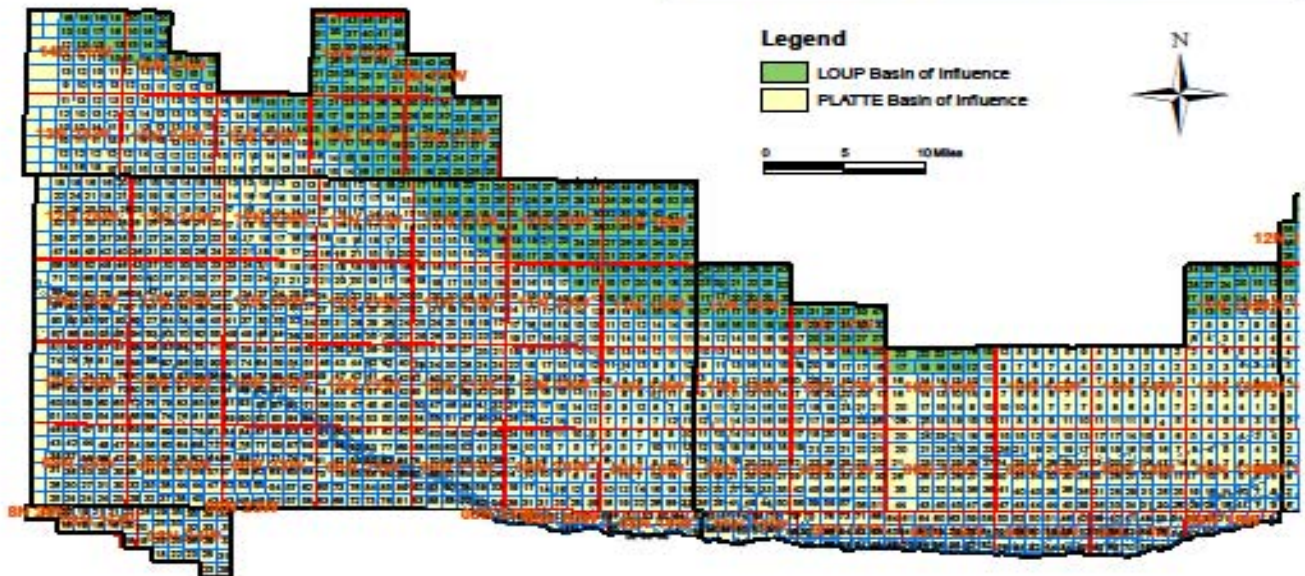
Central Platte Natural Resources District Groundwater Control Area



CENTRAL PLATTE NATURAL RESOURCES DISTRICT GROUNDWATER CONTROL AREA



Attachment A: Map of Central Platte NRD's River Basin of Influence and Percent River Depletion by Section



Attachment A: Map of Central Platte NRD's River Basin of Influence and Percent River Depletion by Section

Legend
 LOUP Basin of Influence
 PLATTE Basin of Influence

0 5 10 Miles

Central Platte NRD Sub Irrigated Area

